

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

CHRISTOPHER IRIZARRY,

Plaintiff,

vs.

9:10-cv-1022
(MAD/DRH)

ROBERT DAVIES, III, Corrections Officer,
Coxsackie Correctional Facility; STEVEN
GRIMALDI, Corrections Officer, Coxsackie
Correctional Facility; MARK HARRIS,
Corrections Officer, Coxsackie Correctional
Facility; and JASON T. YUNG, Sergeant,
Coxsackie Correctional Facility,

Defendants.

JURY VERDICT FORM

PLEASE NOTE - Each Juror will be provided with a Verdict Form. HOWEVER, YOUR VERDICT SHOULD BE REPORTED TO THE JUDGE ON ONLY ONE VERDICT FORM WHICH IS SIGNED BY THE JURY FOREPERSON. The remaining Verdict Forms should be returned to the courtroom deputy unsigned.

ALSO, please carefully follow the bold-type directions accompanying each question.

I. EXCESSIVE FORCE

1(a): Has Plaintiff Irizarry proven by a fair preponderance of the evidence that Defendant **Davies** subjected him to excessive force?

Yes _____ No X

If your answer to 1(a) is "yes," proceed to question 1(b).
If your answer to 1(a) is "no," please skip questions
1(b)-(e) and proceed to question 2(a).

1(b): Has Plaintiff Irizarry proven by a fair preponderance of the evidence that the excessive force used by Defendant **Davies** was a proximate cause of his injuries?

Yes _____ No _____

If your answer to question 1(b) is "yes," please proceed to question 1(c).

If your answer to question 1(b) is "no," please skip questions 1(c), (d), (e) and (f) and proceed to question 2(a).

1(c): What sum of money, if any, do you find that Plaintiff Irizarry has proven by a fair preponderance of the evidence that would fairly compensate him for any injury he has suffered that was proximately caused by Defendant **Davies's** alleged use of excessive force?

\$ _____

Please note that you may not award both compensatory and nominal damages. Therefore, if you found in question 1(c) that Plaintiff Irizarry is entitled to compensatory damages against this Defendant, please skip question 1(d) and proceed to question 1(e). If you found that Plaintiff Irizarry is not entitled to compensatory damages in question 1(c), please proceed to question 1(e) and award Plaintiff Irizarry nominal damages of no more than \$1.00.

1(d): What amount, if any, do you award as nominal damages to Plaintiff Irizarry against Defendant **Davies**?

\$ _____

Please proceed to question 1(e).

1(e): Did Plaintiff Irizarry establish by a fair preponderance of the evidence that Defendant **Davies** was motivated by evil motive or intent or by reckless indifference to Plaintiff Irizarry's constitutional rights, such that punitive damages should be assessed against Defendant **Davies**?

Yes _____ No _____

Please proceed to question 2(a).

2(a): Has Plaintiff Irizarry proven by a fair preponderance of the evidence that Defendant **Grimaldi** subjected him to excessive force?

Yes _____ No X

**If your answer to 2(a) is "yes," proceed to question 2(b).
If your answer to 2(a) is "no," please skip questions 2(b)-(e) and proceed to question 3(a).**

2(b): Has Plaintiff Irizarry proven by a fair preponderance of the evidence that the excessive force used by Defendant **Grimaldi** was a proximate cause of his injuries?

Yes _____ No _____

**If your answer to question 2(b) is "yes," please proceed to question 2(c).
If your answer to question 2(b) is "no," please skip questions 2(c), (d), and (e) and proceed to question 3(a).**

2(c): What sum of money, if any, do you find that Plaintiff Irizarry has proven by a fair preponderance of the evidence that would fairly compensate him for any injury he has suffered that was proximately caused by Defendant **Grimaldi's** alleged use of excessive force?

\$ _____

Please note that you may not award both compensatory and nominal damages. Therefore, if you found in question 2(c) that Plaintiff Irizarry is entitled to compensatory damages against this Defendant, please skip question 2(d) and proceed to question 2(e). If you found that Plaintiff Irizarry is not entitled to compensatory damages in question 2(c), please proceed to question 2(d) and award Plaintiff Irizarry nominal damages of no more than \$1.00.

2(d): What amount, if any, do you award as nominal damages to Plaintiff Irizarry against Defendant **Grimaldi**?

\$ _____

Please proceed to question 2(e).

2(e): Did Plaintiff Irizarry establish by a fair preponderance of the evidence that Defendant **Grimaldi** was motivated by evil motive or intent or by reckless indifference to Plaintiff Irizarry's constitutional rights, such that punitive damages should be assessed against Defendant **Grimaldi**?

Yes _____ No _____

Please proceed to question 3(a).

3(a): Has Plaintiff Irizarry proven by a fair preponderance of the evidence that Defendant **Harris** subjected him to excessive force?

Yes _____ No X

**If your answer to 3(a) is "yes," proceed to question 3(b).
If your answer to 3(a) is "no," please skip questions 3(b)-
(e) and proceed to question 4(a).**

3(b): Has Plaintiff Irizarry proven by a fair preponderance of the evidence that the excessive force used by Defendant **Harris** was a proximate cause of his injuries?

Yes _____ No _____

**If your answer to question 3(b) is "yes," please proceed to
question 3(c).
If your answer to question 3(b) is "no," please skip
questions 3(c), (d), and (e) and proceed to question 4(a).**

3(c): What sum of money, if any, do you find that Plaintiff Irizarry has proven by a fair preponderance of the evidence that would fairly compensate him for any injury he has suffered that was proximately caused by Defendant **Harris'** alleged use of excessive force?

\$ _____

**Please note that you may not award both compensatory
and nominal damages. Therefore, if you found in question
3(c) that Plaintiff Irizarry is entitled to compensatory
damages against this Defendant, please skip question 3(d)
and proceed to question 3(e). If you found that Plaintiff
Irizarry is not entitled to compensatory damages in
question 3(c), please proceed to question 3(d) and award
Plaintiff Irizarry nominal damages of no more than \$1.00.**

3(d): What amount, if any, do you award as nominal damages to Plaintiff Irizarry against Defendant **Harris**?

\$ _____

Please proceed to question 3(e).

3(e): Did Plaintiff Irizarry establish by a fair preponderance of the evidence that Defendant **Harris** was motivated by evil motive or intent or by reckless indifference to Plaintiff Irizarry's constitutional rights, such that punitive damages should be assessed against Defendant **Harris**?

Yes _____ No _____

Please proceed to question 4(a).

4(a): Has Plaintiff Irizarry proven by a fair preponderance of the evidence that Defendant **Yung** subjected him to excessive force?

Yes _____ No X

**If your answer to 4(a) is "yes," proceed to question 4(b).
If your answer to 4(a) is "no," please skip questions 4(b)-(e) and proceed to question 5(a).**

4(b): Has Plaintiff Irizarry proven by a fair preponderance of the evidence that the excessive force used by Defendant **Yung** was a proximate cause of his injuries?

Yes _____ No _____

If your answer to question 4(b) is "yes," please proceed to question 4(c). If your answer to question 4(b) is "no," please skip questions 4(c), (d), and (e) and proceed to question 5(a).

4(c): What sum of money, if any, do you find that Plaintiff Irizarry has proven by a fair preponderance of the evidence that would fairly compensate him for any injury he has suffered that was proximately caused by Defendant **Yung**'s alleged use of excessive force?

\$ _____

Please note that you may not award both compensatory and nominal damages. Therefore, if you found in question 4(c) that Plaintiff Irizarry is entitled to compensatory damages against this Defendant, please skip question 4(d) and proceed to question 4(e). If you found that Plaintiff Irizarry is not entitled to compensatory damages in question 4(c), please proceed to question 4(d) and award Plaintiff Irizarry nominal damages of no more than \$1.00.

4(d): What amount, if any, do you award as nominal damages to Plaintiff Irizarry against Defendant **Yung**?

\$ _____

Please proceed to question 4(e).

4(e): Did Plaintiff Irizarry establish by a fair preponderance of the evidence that Defendant **Yung** was motivated by evil motive or intent or by reckless indifference to Plaintiff Irizarry's constitutional rights, such that punitive damages should be assessed against Defendant **Yung**?

Yes _____

No _____

II. FAILURE TO INTERVENE

PLEASE NOTE. If you answered "no" to either question 2(a) or 2(b) for Defendant Grimaldi in the above section pertaining to excessive force, your deliberations are complete. Please have the foreperson sign and date the last page of the Jury Verdict Form and notify the Marshal that you have reached a verdict. If you answered "Yes" to both questions 2(a) and 2(b) as to Defendant Grimaldi in the above section pertaining to excessive force, please answer the questions below pertaining to Plaintiff Irizarry's failure to intervene claim.

5(a): Has Plaintiff Irizarry proven by a fair preponderance of the evidence that Defendant **Harris** was deliberately indifferent in failing to aid in preventing the use of excessive force by Defendant **Grimaldi**, although he had the power and ability to do so?

Yes_____ No_____

**If your answer to 5(a) is "yes," proceed to question 5(b).
If your answer to 5(a) is "no," your deliberations are complete. Please have the foreperson sign and date the last page of the Jury Verdict Form and notify the Marshal that you have reached a verdict.**

5(b): Has Plaintiff Irizarry proven by a fair preponderance of the evidence that the conduct of Defendant **Harris**, in failing to aid in preventing the use of excessive force by Defendant **Grimaldi**, was a proximate cause of Plaintiff Irizarry's injuries?

Yes_____ No_____

**If your answer to question 5(b) is "yes," please proceed to question 5(c).
If your answer to question 5(b) is "no," your deliberations are complete. Please have the foreperson sign and date the last page of the Jury Verdict Form and notify the Marshal that you have reached a verdict.**

5(c): What sum of money, if any, do you find that Plaintiff Irizarry has proven by a fair preponderance of the evidence that would fairly compensate him for any injury he has suffered that was proximately caused by Defendant **Harris'** alleged failure to intervene?

\$ _____

Please note that you may not award both compensatory and nominal damages. Therefore, if you found in question 5(c) that Plaintiff Irizarry is entitled to compensatory damages against Defendant Harris on this claim, please skip question 5(d) and proceed to question 5(e). If you found that Plaintiff Irizarry is not entitled to compensatory damages in question 5(c), please proceed to question 5(d) and award Plaintiff Irizarry nominal damages of no more than \$1.00.

5(d): What amount, if any, do you award as nominal damages to Plaintiff Irizarry against Defendant **Harris**?

\$ _____

Please proceed to question 5(e).

5(e): Did Plaintiff Irizarry establish by a fair preponderance of the evidence that Defendant **Harris** was motivated by evil motive or intent or by reckless indifference to Plaintiff Irizarry's constitutional rights, such that punitive damages should be assessed against Defendant **Harris** for his alleged failure to aid in preventing the use of excessive force by Defendant **Grimaldi**?

Yes _____ No _____

YOUR DELIBERATIONS ARE COMPLETE.

PLEASE INFORM THE MARSHAL THAT YOU HAVE REACHED A VERDICT. PLEASE REMEMBER TO DATE AND SIGN YOUR VERDICT SHEET. THANK YOU.

Dated: July 27, 2012

REDACTED FOREPERSON NAME

Foreperson's Signature